

## **MADAGASCAR: Tier 2**

The Government of Madagascar does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated overall increasing efforts compared to the previous reporting period, considering the impact of COVID-19 pandemic on its anti-trafficking capacity; therefore Madagascar remained on Tier 2. These efforts included increasing investigations and prosecutions of suspected trafficking crimes; repatriating victims of trafficking; operationalizing two new one-stop centers to provide assistance to victims of child sexual exploitation, including child sex trafficking; and establishing a second specialized center for gender-based violence victims, including trafficking victims. For the first time in recent years, the government reported taking law enforcement action in trafficking cases involving child sex tourism. However, the government did not meet the minimum standards in several key areas. Despite continued reports of alleged complicity, the government did not hold any complicit officials accountable and did not investigate reports of officials facilitating child sex trafficking or the dismissal of trafficking cases. The government remained without official standard operating procedures (SOPs) to proactively identify trafficking victims and refer them to care, and it did not identify any foreign victims of trafficking. Overall efforts to address internal trafficking crimes, including domestic servitude, forced begging, and child sex trafficking, remained inadequate.

### **PRIORITIZED RECOMMENDATIONS:**

Vigorously investigate and prosecute trafficking offenses, including complicit officials and perpetrators of internal trafficking crimes, and adequately sentence convicted traffickers.

- Systematically and proactively identify trafficking victims by screening for trafficking indicators among vulnerable populations, including child laborers,

women exploited in commercial sex, migrant workers, and Chinese nationals working on Chinese government-funded infrastructure projects.

- Refer all identified trafficking victims to appropriate protection services, including victims of internal trafficking, such as domestic servitude, forced begging, child sex trafficking, migrant workers, and Chinese nationals working on Chinese government-funded infrastructure projects.
- Institutionalize the training of front-line officials on case investigation and the use of SOPs for the identification and referral of victims to appropriate services.
- Finalize, adopt, and provide appropriate funding to implement an anti-trafficking national action plan.
- Amend the 2014 anti-trafficking law to ensure that the penalties prescribed for adult sex trafficking are commensurate with those prescribed for other serious crimes, such as rape and/or kidnapping.
- Improve coordination between law enforcement and prosecutors/investigating judges, including regular case conferencing and conducting prosecution-led investigations.
- Establish and implement strong regulations and oversight of recruitment companies, and enhance enforcement, including by investigating and prosecuting those involved in fraudulent labor recruitment.
- Increase migrant worker protections by prohibiting recruitment fees charged to migrant workers and requiring minimum salaries, pre-departure training, a mutually enforceable standard contract, a complaints mechanism for returning workers, and a public blacklist of abusive employers.
- Improve the national identification system, including a database and anti-fraud features, to prevent child sex trafficking based on issuance of fraudulent documentation.
- Increase use by all relevant agencies of the national centralized anti-trafficking database to streamline data collection, including the number of victims identified, cases investigated and prosecuted, and convictions.

- Conduct community-level sensitization campaigns to raise public awareness of all forms of trafficking, including child sex trafficking and internal trafficking.

## **PROSECUTION**

The government maintained anti-trafficking law enforcement efforts. Law No.2014-040 criminalized sex trafficking and labor trafficking and prescribed penalties ranging from two to five years' imprisonment and a fine of one million to 10 million Malagasy ariary (MGA) (\$260 to \$2,610) for offenses involving an adult victim, and five to 10 years' imprisonment and a fine of two million to 20 million MGA (\$520 to \$5,230) for those involving a child victim. These penalties were sufficiently stringent. For offenses involving children, with respect to sex trafficking, these penalties were commensurate with those prescribed for other serious crimes, such as rape; however, offenses involving adult sex trafficking were not commensurate with those prescribed for other serious crimes.

The government reported investigating 24 potential trafficking cases involving at least 30 suspects, compared with 16 investigations involving at least 16 suspects in the previous reporting period. The government arrested at least 20 suspected traffickers; many remained in pretrial detention at the end of the reporting period, while the government temporarily released some of the suspects. The government reported prosecuting eight trafficking cases, involving at least eight suspected traffickers, compared with the prosecution of seven alleged traffickers in one case in 2019. The government reported referring all other investigated cases for prosecution but did not report initiating prosecutions or provide updates on ongoing cases. The Anti-Corruption Court (PAC) of Antananarivo, whose mandate included trafficking cases that were transnational or involved criminal networks or fraudulent documents, convicted two traffickers charged with fraudulently inducing Malagasy women to travel to China for the purpose of exploitation, compared with six convictions in 2019 and zero convictions in 2018 and 2017. The PAC sentenced both traffickers to six years' imprisonment. A second branch of the PAC began operations in Mahajanga in October

2020. For the first time in recent years, the government reported investigating and prosecuting suspects involved in child sex trafficking, including child sex tourism. In Toliara, authorities prosecuted and convicted a foreign tourist who engaged in child sex trafficking and was charged with child sexual exploitation. The Court of First Instance convicted the tourist of pedophilia and sentenced him to five years' imprisonment and a fine of 10 million MGA (\$2,610); however, the perpetrator appealed his sentence, claiming poor health conditions, and courts subsequently released him and suspended the judgement. The government did not report the outcome of the other six reported prosecutions. Overall, efforts to investigate and prosecute internal trafficking crimes, including domestic servitude, forced begging, and child sex trafficking, remained inadequate compared to the scale of the problem, and officials continued to frequently conflate trafficking and smuggling. Since May 2020, the National Office to Combat Human Trafficking (BNLTEH) has maintained a national database for the collection of trafficking-related information; however, not all relevant ministries regularly contributed to the database, causing national law enforcement statistics to remain difficult to obtain and verify.

The government did not report any investigations, prosecutions, or convictions of government officials complicit in trafficking offenses; however, corruption and official complicity in trafficking crimes remained significant concerns, inhibiting law enforcement action during the year. Furthermore, procedures stating that a government official cannot be arrested without authorization from the official's supervisor impeded holding complicit officials accountable for trafficking crimes. Observers reported some government officials continued to help Malagasy nationals obtain fraudulent travel documentation to circumvent a 2013 travel ban to certain Middle Eastern countries where traffickers have exploited Malagasy laborers. Observers also alleged that a network of government officials continued to produce false identity documents used to facilitate child sex trafficking, especially in coastal areas like Nosy Be; however, the government did not report initiating an investigation into these continued allegations. Judges released accused sex offenders, some of

whom may have been traffickers and often were foreign citizens, allegedly at the request of senior government officials.

In partnership with an NGO, the government trained nine law enforcement officials, gendarmes, and judges in Toamasina and Morondava on reporting child sex trafficking, compared with at least 110 officials trained in 2019 and 264 in 2018. Despite training efforts, the government did not institutionalize anti-trafficking training, and some police, immigration officers, prosecutors, and judges continued to lack a clear understanding of trafficking, which hampered law enforcement and victim identification efforts. Coordination and information sharing between the public prosecutor's office and police were inadequate and continued to hinder case progression. In December 2019, the government, in partnership with an international organization, approved an interagency agreement between the justice system, the national police, and the national gendarmerie to establish a protocol for effective coordination on trafficking cases; however, the different agencies had not signed the agreement and did not report cases of its implementation for the second consecutive reporting period. Due to lengthy judicial processes and a lack of implementation for victim protections in criminal proceedings, victims and families often chose to settle conflicts, including trafficking crimes, through informal family mediations at the local level. Victims were often reluctant to file charges due to fear of reprisals.

## **PROTECTION**

The government increased victim protection efforts. Due to a lack of coordinated data collection at the national level, the government did not report comprehensive data. The government reported identifying at least 175 victims of trafficking during the reporting period, compared with at least 111 victims identified in the previous reporting period. Of the identified victims reported, 172 were female, three were male; 171 were adults, four were children; and all victims were Malagasy nationals. The government provided various forms of assistance, including medical services, psychosocial counseling, and financial support, to at least 117 trafficking victims,

compared with at least 103 victims assisted last reporting period. In addition to victims identified by the government, NGOs and international organizations reported identifying and assisting at least 973 potential victims, providing them with protective services, including medical care, social reintegration assistance, and school support. The government, with the support of international organizations, repatriated 305 Malagasy women, including potential victims of trafficking, from the Middle East—176 from Kuwait, 75 from Saudi Arabia, and 54 from Lebanon—where they had been laboring in domestic work and potentially exploited in domestic servitude, compared with 68 victims repatriated from Kuwait in the previous reporting period. The government and international organizations reported all of the women became stranded abroad due to pandemic-related business closures, travel restrictions, and border closures.

The government remained without official SOPs to proactively identify trafficking victims and refer them to care; instead, there were disparate SOPs across different ministries. An international organization reported training law enforcement officials and service providers on a victim identification and referral manual; however, the manual did not include methods to proactively screen vulnerable groups to identify potential trafficking victims. The manual included a list of assistance organizations to which victims should be referred for care. The government did not distribute the manual, and officials used it only minimally outside of Antananarivo. The Central Unit of Specialized Investigation and Fight Against Documentary Fraud within the National Police reportedly developed a victim identification questionnaire for use during investigations; however, the government did not report implementing the tool during the reporting period.

The Ministry of Population (MOP), in collaboration with an international organization, continued to coordinate more than 700 child protection networks across the country to protect children from various forms of abuse and exploitation, as well as to ensure access to medical and psychological services for victims of crime, including trafficking. Due to lack of resources, only about 600 child protection networks provided basic

assistance through public hospitals and health units, and most of the networks referred the victims to international organizations and NGOs for additional assistance; however, this was an increase compared with only 400 operating in the previous reporting period. Through referral from the child protection networks, an international organization assisted 876 children (487 girls and 389 boys), including victims of sexual exploitation and the worst forms of child labor, both including child trafficking. The Mitsinjo Center, a government-owned, trafficking-specific temporary shelter for repatriated adult victims, assisted one potential victim during the reporting period. Since the intended recipients of shelter at the center had to quarantine after travel during the pandemic, repatriated women, including potential trafficking victims, received shelter at a hotel paid for by international organizations. The government reported the center was instead used as emergency shelter for victims of other types of violence for most of the reporting period. Six government hospitals had “one-stop” victim support centers that offered assistance to child victims of various abuses, including sex trafficking; the one-stop support centers—located in Antananarivo, Mahajanga, Nosy Be, Toamasina, Tolagnaro, and Toliara—offered victims medical assistance, psychological support, and access to police and social workers. The government reported assisting 1,304 children (including 14 boys) at these facilities; however, the government did not report the number of identified trafficking victims assisted. The government opened and operated two new one-stop centers in Tolagnaro and Toliara during the reporting period. The MOP, in partnership with an international organization, continued to operate a foster care program for exploited children in Nosy Be; the government did not provide statistics on the number of available foster families or beneficiaries for the second consecutive reporting period. The government continued to operate and fund the Manjary Soa Center in Antananarivo, which received 30 children who had been removed from situations of forced labor and sex trafficking. This center provided vocational training or reintegration into the public school system and allowed victims to stay at the center for a whole school year. The city of Antananarivo continued to manage an emergency center for child victims of crime, including domestic servitude and forced begging

victims, who were frequently referred by the Morals and Protection of Minors Police Service; the city, in partnership with an international organization, provided food, lodging, psychological and medical aid, and educational services. In November 2020, the government, in partnership with an international organization, established a second specialized center for gender-based violence victims, including trafficking victims, in Antananarivo; the MOP provided training to staff at the new shelter on trafficking victim identification. These centers provided free psychological support, medical care, and legal assistance; the government did not report the number of trafficking victims assisted during the reporting period.

The 2014 anti-trafficking law required authorities to consider legal alternatives for foreign trafficking victims who believe they may face hardship or retribution if returned to their country of origin, but the government did not report providing this protection to victims during the reporting period. There were occasional reports that the government arrested or punished trafficking victims for unlawful acts traffickers compelled them to commit; police would sometimes arrest girls for prostitution without screening or identification as trafficking victims and would sometimes temporarily keep potential transnational labor trafficking victims in police stations due to a lack of alternative accommodations. Observers reported employers often sued former child domestic workers to avoid paying accumulated unpaid salaries in cases where victims may have reported their abuse; however, the government did not report investigating these incidents. To prevent retaliation from suspected traffickers, trafficking trials could be held in private or by camera for the sake of the victim or witness confidentiality and privacy; however, the government did not report doing so during the reporting period. While the 2014 anti-trafficking law entitled victims to restitution, for the seventh consecutive year, the government did not implement this provision.



## PREVENTION

The government maintained efforts to prevent trafficking. BNLTEH, under the prime minister's office, continued to lead the government's national anti-trafficking efforts. During the reporting period, the government dedicated additional resources to BNLTEH, increasing the total staff from six to 15 civil servants. The 2020 federal budget legislation provided a dedicated budget of 410 million MGA (\$107,200) for anti-trafficking programs led by BNLTEH; however, the government did not disburse any funding to BNLTEH during the year, attributing the decision to the strain on the national budget during the pandemic. The lack of funding led to the cancellation of most of BNLTEH's planned activities. The government did not have an anti-trafficking national action plan (NAP); BNLTEH finalized an updated draft NAP, which was awaiting approval by the prime minister at the end of the reporting period. The government maintained efforts to conduct public awareness campaigns during the reporting period. BNLTEH, in partnership with an international organization, launched an online campaign focused on the increased risks of human trafficking in the context of socio-economic challenges during the pandemic. BNLTEH also disseminated four series of posters to raise awareness among relevant government ministries. Despite decreased air travel due to the pandemic, BNLTEH continued to broadcast a video on the risks of dangerous migration and human trafficking in Ivato International Airport. BNLTEH maintained a hotline to report human trafficking and dedicated staff to receive incoming calls; however, calling the hotline was not free of charge, and its publicization was limited. In partnership with an international organization, the MOP continued to operate a national toll-free hotline to report child abuse. The government reported identifying 37 cases of child exploitation—including at least 23 cases of forced labor in domestic servitude and at least three cases of child sex trafficking—from the hotline during the reporting period, compared with 27 cases in the previous reporting period.

A 2013 ban on migrant worker travel to Middle Eastern countries the government considered high-risk remained in place; however, illicit recruitment agencies circumvented the ban by sending workers through Comoros, Ethiopia, Kenya,

Mauritius, and Seychelles. In an attempt to address this issue and identify agencies involved in fraudulent recruitment, the government continued its suspension of all existing accreditations for placement agencies and, thus, its prohibition of recruitment of workers for employment abroad. These prohibitions on migrant workers continued to leave Malagasy with no legal means to travel abroad for work and therefore without access to protection mechanisms available through authorized travel, subsequently increasing their vulnerability to trafficking and blackmail. The Ministry of Labor, Employment, Civil Service, and Social Laws (MOL) continued to oversee the process of migrant workers traveling to non-Gulf countries by requiring contract approval by the relevant Malagasy embassy. The MOL and Ministry of Youth, in partnership with an international organization, established fair recruitment focus groups in the Analamanaga, Diana, and Sava regions; these groups met regularly to assess employment opportunities abroad, identify alternatives to professional migration, and raise awareness on the risks of illegal work migration.

The government increased efforts to reduce the demand for commercial sex acts, including child sex tourism. Local officials in Toliara, a destination for child sex tourism, increased efforts to investigate child sex tourism suspects, including those purchasing sex from children. The Ministry of Tourism (MOT), in partnership with international organizations, continued to monitor the commitment of the approximately 1,000 tourism operators in 12 regions who had previously acceded to the tourism code of conduct against commercial child sexual exploitation and sex tourism. The MOT reported that it continued to conduct an unknown number of routine compliance inspections; however, the government did not report the number of inspections conducted during the reporting period, if any hotel operators were found in violation of the code, or if steps were taken to rectify noncompliance. The MOT conducted an unknown number of hotel compliance inspections to remind hotels of their obligation to display posters in their reception areas publicizing the prohibition of commercial child sexual exploitation; the government also maintained such billboards at airports as a warning for tourists. The MOT, in partnership with NGOs and an international donor, continued to disseminate pamphlets to tourists to remind them that child sex

trafficking was illegal and provide steps on how to report a trafficking crime. The government did not provide anti-trafficking training to diplomats.

## **TRAFFICKING PROFILE**

As reported over the past five years, human traffickers exploit domestic and foreign victims in Madagascar, and traffickers exploit victims from Madagascar abroad. Traffickers exploit Malagasy children, mostly from rural and coastal regions and from impoverished families in urban areas, in child sex trafficking and forced labor in domestic service, mining, fishing, and agriculture across the country. The prevalence of child forced begging continues to increase in Antananarivo; reports indicate that traffickers force children, including those with disabilities, to work for long hours and in dangerous conditions, frequently at the behest of their parents. Most child sex trafficking occurs in tourist destinations, urban cities, vanilla-growing regions, and around formal and informal mining sites with the involvement and encouragement of family members; however, tourist operators, hotels, taxi drivers, massage centers, and local adults in commercial sex also facilitate this crime. Traffickers continue to exploit girls as young as 13 years old in child sex tourism in Nosy Be and other coastal areas, increasingly in Toliara. Malagasy men exploit the majority of child sex trafficking victims. Although tourist arrivals declined in 2020, historically most foreign sex tourists in Madagascar are French and Italian nationals, and, to a lesser extent, other Westerners and Comorians. In coastal areas like Nosy Be, Toliara, Mahajanga, and Toamasina, parents encourage girls as young as 15 years old to become financially independent by engaging in commercial sex with foreign tourists; traffickers use this cultural norm as an opportunity to exploit girls in child sex trafficking. Traffickers fraudulently recruit some children for work in Antananarivo and Mahajanga as waitresses and masseuses before exploiting them in child sex trafficking. Traffickers continue to abuse traditional practices of arranged marriage, bride purchase, and girl markets to exploit girls in child sex trafficking. Government officials are reportedly complicit in providing falsified national identity cards to traffickers that facilitate child sex trafficking in Madagascar and forced labor in domestic service of Malagasy women

abroad. During the pandemic, sex traffickers increasingly exploited women and children online; in some cases, traffickers lured women from rural provinces to Antananarivo with the promise of employment but then forced them to perform online sex acts for foreign customers. Previous reports indicated child sex trafficking of boys was becoming more prevalent. Forced labor persisted in the context of *dinas*, which were informal arrangements for payment or in response to wrongdoing and a way of resolving conflicts or paying debt.

Many Malagasy women are employed as domestic workers in China, Lebanon, Kuwait, and Saudi Arabia, and media sources report that informal placement agencies are still attempting to circumvent a 2013 ban against sending workers to the Middle East by routing them via Comoros, Ethiopia, Kenya, Mauritius, and Seychelles using legitimate tourist visas to avoid declaring travelers as migrant workers. Traffickers acting as agents in labor recruitment agencies send Malagasy women to China with falsified identity cards, where they are exploited in forced labor in agriculture or domestic servitude. Traffickers and employers may exploit Malagasy men in forced labor in the services and construction industries in the Middle East and in domestic service in China. Suspending accreditation of placement agencies has led to employers and traffickers increasingly targeting migrant workers for blackmail or solicitation of bribes. Reports indicate traffickers and employers exploit Malagasy workers in Gulf States using various forms of abuse, such as physical violence, salary withholding, and confiscation of passports. Chinese nationals working in Madagascar, particularly in construction, may have been forced to work, including by the state-owned enterprises that employed them.